S.B.Cr.Misc. II Bail App. No. 4430/2007
(Shanker & Anr. Vs. State of Rajasthan)

Date of order : 10/09/2007

HON'BLE MR.H.R.PANWAR, J.

Mr. P.R.Mehta for the petitioners.

Mr. Ashok Upadhyay, Public Prosecutor.

Heard learned counsel for the petitioners and the Public Prosecutor for the State. Perused the order impugned and challan papers as also the statements of witnesses recorded by the trial court.

While rejecting the earlier bail application on 09.08.2007 it was noticed that there is statement as also affidavit of Smt. Phulki W/o Narayan showing involvement of the petitioners in commission of crime and therefore, the bail application was dismissed and the trial court was directed to record the statement of Smt. Phulki as first witness. Learned counsel for the petitioners has placed on record the statement of Smt. Phulki PW-2 and contended that she did not support the prosecution case and has turned hostile. Learned counsel for the petitioners submits that except Phulki, there is no witness to the occurrence.

Be that as it may, since the principal witness did not support the prosecution case, looking to the facts and circumstances of the case and having considered the oral arguments advanced by both the parties, I think it just and proper to enlarge the accused petitioners on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is

allowed and it is directed that petitioners Shanker S/o Amrit and Rakma S/o Naku @ Nakla be released on bail in FIR No. 33/07 P.S. Mahidem, district Banswara, provided each of them executes a personal bond for a sum of Rs. 20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for their appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP